

REMARKS

General

Applicant gratefully acknowledges the Examiner's Office Action dated September 12, 2006. Applicant has cancelled Claims 1-26 and the Examiner has acknowledged the same. Further, the Examiner's claim objection to Claim 45 on numbered Page 2 of the Office Action is acknowledged and addressed below.

However, the Examiner's rejections of Claims in the referenced Office Action are respectfully traversed. The Examiner has rejected all pending claims of the instant application -- that is, Claims 27-46.

In particular, the rejections included the following: on numbered Pages 2-4 of the Office Action, Claims 27-32, 34-41, and 43-46 rejected under 35 U.S.C. §103(a) as being unpatentable over Papetti (US Patent No. 4,726,708) in view of Taguchi et al. (US Patent No. 5,200,261); further, on numbered Page 4 of the Office Action, Claims 33 and 42 rejected under 35 U.S.C. §103(a) as being unpatentable over Papetti in view of Taguchi as applied to independent claims 27 and 36, and also in further view of Ragazzo (US Patent No. 5,636,938).

Additionally, to the extent that the Examiner's comments are not now moot in view of the amendments to the claims and the like, Applicant believes that the Examiner's concerns have been fully addressed, as presented on numbered Pages 5-11 of the Office Action.

Finally, Applicant believes that all of the Examiner's viable (i.e., not moot) objections, rejections, and other comments and concerns (as addressed in the Examiner's "Response to Arguments" on numbered Pages 5-11 of the Office Action) are fully addressed in this paper vis-a-vis the rejected Claims 27-46.

Petition for One-Month Extension of Time

Applicant respectfully requests that this response be considered as *timely filed*, pursuant to 37 C.F.R. §1.136(a). Enclosed herewith is a petition for extension of time for one-month and a credit card authorization form for the appropriate fee. Applicant claims small entity status. Further, Applicant authorizes the USPTO to credit any overages or debit any underages as needed in connection with this response to be considered timely filed, to the extent that the expressly authorized amount is not sufficient.

Independent Claims

Independent Claim 27

Independent Apparatus Claim 27 (from which Dependent Claims 28-35 depend, indirectly or directly) recites a portable roadway comprising the following: a support layer having a top surface and a traffic layer for supporting construction vehicle traffic.

In particular, Independent Claim 27 provides that the support layer comprise of a plurality of wire mesh gabions. Each of the wire mesh gabions have a plurality of compartments wherein each of the compartments are substantially full of filler material. The filler material has a density less than that of water.

Moreover, as indicated above, the portable roadway of Independent Claim 27 also comprises a traffic layer supported by the above-referenced top surface. The traffic layer comprises of a plurality of removable panels which are placed on the above-mentioned top surface.

Accordingly, these recited features of Independent Claim 27 constitute a portable roadway which has sufficient strength to support construction vehicle traffic.

Independent Claim 36

Independent Apparatus Claim 36 (from which Dependent Claims 37-44 depend, indirectly or directly) recites a portable platform comprising the following: a support layer having a top surface and a traffic layer for supporting construction vehicle traffic.

In particular, Independent Claim 36 provides that the support layer comprise of a plurality of wire mesh gabions. Each of the wire mesh gabions have a plurality of compartments wherein each of the compartments are substantially full of filler material. The filler material has a density less than that of water.

Moreover, as indicated above, the portable platform of Independent Claim 36 also comprises a traffic layer supported by the above-referenced top surface. The traffic layer comprises of a plurality of panels, each of the panels being removably placeable onto the above-mentioned top surface.

Accordingly, these recited features of Independent Claim 36 constitute a portable platform which has sufficient strength to support construction vehicle traffic.

Independent Claim 45

Independent Method Claim 45 recites a method for constructing a portable roadway or a portable platform. This method comprises the following steps: 1) providing a plurality of multi-compartment wire mesh gabions; 2) providing a plurality of movable panels; 3) providing a filler material having a density less than that of water; 4) filling the compartments of at least some of the gabions to substantial fullness with the filler material; 5) assembling the gabions to form a support layer which has a top surface; and, 6) placing the plurality of movable panels onto the top surface to form a traffic layer.

The above-referenced support layer and traffic layer interact to form a portable roadway and/or a portable platform. Further, this portable roadway and/or portable platform has the physical characteristic of having sufficient strength to support construction vehicle traffic.

Claim Objections

Claim 45

Applicant gratefully acknowledges Examiner's claim objection to Claim 45 on numbered Page 2 of the Office Action dated September 12, 2006 ("Office Action"). Accordingly, the preamble of method Claim 45 is amended so that it is understood that the Claim concerns a method "for constructing a portable roadway or a portable platform."

Further, for the sake of clarity and consistency, the phrase "each one of is inserted before "portable roadway" and likewise the phrase is inserted before "portable platform." Moreover, the previous recitations of "a portable roadway" or "a portable platform" in the body of Claim 45 (i.e., prior to the *amended language* of Claim 45) have been replaced with "said portable roadway" and "said portable platform" for proper antecedent bases as to each.

Claim Rejections

35 U.S.C. §103 - Papetti

Claims 27-32, 34-41, and 43-46

Applicant respectfully acknowledges that the Examiner has rejected Claims 27-32, 34-41, and 43-46 under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 4726708 to Papetti ("Papetti"), in view of U.S. Patent No. 5,200,261 to Taguchi ("Taguchi") on numbered Page 2 of the Office Action.

Inapplicability of Papetti

However, the Examiner's characterization of Papetti as disclosing "a temporary road and a method of making" the same on numbered Page 2 of the Office Action is not founded. Nowhere in Papetti is there a teaching, suggestion, or motivation to use the mattress-type gabion as a temporary roadway or platform, let alone the method for making such a temporary roadway or platform.

Instead, Papetti provides for a "mattress-type gabion for use as a covering...for preventing soil erosion caused by surface water and infiltration, and for consolidating soil against landslides...[caused by a plurality of reasons including]... road construction...."

Therefore, while "road construction" is *incidentally* referred to, it is just one example, among others provided in Papetti, which relates to the problem of landslides and the need for soil reinforcement by way of the mattress-type gabion system.

Accordingly, the use of Papetti as a primary reference in view of 35 U.S.C. §103(a) was improper.

Invention Distinguished from Papetti

Additionally, to further distinguish Applicant's Claims 27-32 and 34-35 as rejected by the Examiner in view of 35 U.S.C. §103(a), Applicant respectfully emphasizes that: Independent Claim 27 is directed to a portable roadway, unlike Papetti for the above-mentioned reasons.

Claims Distinguished from Papetti

Moreover, Dependent Claims 28-32 and 34-35, which directly or indirectly depend from Independent Claim 27, have the following additional distinguishing aspects:

Claim 28 (filler material is expanded polystyrene foam); Claim 29 (filler material is encapsulated in a fabric wrapper); Claim 30 (fabric wrapper is polypropylene yarn); Claim 31 (filler material in at least one of the gabion compartments is in the form of a single block); Claim 32 (the gabion is a mattress gabion); Claim 34 (at least one of the panels is either a wood or metal panel or a combination thereof); and, Claim 35 (at least some of the panels are interlockable with one another).

Additionally, to further distinguish Applicant's Claims 36-41 and 43-44 as rejected by the Examiner in view of 35 U.S.C. §103(a), Applicant respectfully emphasizes that Independent Claim 36 is directed to a portable platform, unlike Papetti for the above-mentioned reasons.

Moreover, Dependent Claims 37-41 and 43-44, which directly or indirectly depend from Independent Claim 36, have the following additional distinguishing aspects:

Claim 37 (filler material is expanded polystyrene foam), Claim 38 (filler material is encapsulated in fabric wrapper), Claim 39 (fabric is propylene yarn), Claim 40 (filler material in at least one of the gabion compartments is in the form of a single block), Claim 41 (at least one of the gabions is a mattress gabion), Claim 43 (at least one of the panels is either wood or metal or a combination thereof), depend from Independent Claim 36, have the following additional distinguishing aspects: Claim 28 (filler material is expanded polystyrene foam); Claim 29 (filler material is encapsulated in a fabric wrapper); Claim 30 (fabric wrapper is polypropylene yarn); Claim 31 (filler material in at least one of the gabion compartments is in the form of a single block); Claim 32 (the gabion is a mattress gabion); Claim 34 (at least one of the panels is either a wood or metal panel or a combination thereof); and, Claim 35 (at least some of the panels are interlockable with one another).

Additionally, to further distinguish Applicant's Claims 45-46 as rejected by the Examiner in view of 35 U.S.C. §103(a), Applicant respectfully emphasizes that: Independent Claim 45 is directed to a portable roadway or platform, unlike Papetti for the above-mentioned reasons.

Applicant respectfully requests that Claims 27-32, 34-41, and 43-46 be allowed in view of the Examiner's misapplication of Papetti as a primary reference and Applicant's further distinctions of the Claims.

35 U.S.C. §103 – Taguchi
Claims 27-32, 34-41, and 43-46

While Applicant respectfully agrees with Examiner, on numbered Page 3 of the Office Action, that Papetti does not disclose the type of ballast material being used, Applicant wishes to respectfully clarify the true meaning of "ballast" and explain why Examiner has misapplied the primary reference (Papetti) and the secondary reference (Taguchi) to Applicant's invention.

Invention Distinguished from Taguchi

First, Applicant's specification does not expressly or implicitly refer to *ballast* material, though it does refer to *buoyant* material having a density less than water. Applicant respectfully refers Examiner to Independent Claims 27 (and Dependent Claims 28-35), 36 (and Dependent Claims 37-44), and 45 (and Dependent Claim 46)), each of which are apparatus and/or method claims which provide for filler material "having a density less than water."

Second, Applicant respectfully refers Examiner to one of the Examiner's cited references: US Patent No. 5,636,938 to Ragazzo ("Ragazzo"). In col. 1, lines 21-40, Ragazzo provides the meaning of "ballast" as being "hard durable material" (col. 1, line 18), such as "stone or gravel" or "slag or broken concrete" (col. 1, lines 37-38). As can be seen by these provided examples, these ballast materials are not akin to, for example, Applicant's filler material having a density less than that of water (e.g., expanded polystyrene foam). To further differentiate this point, Ragazzo further explains, "[t]he main property of ballast is that the material be of sufficient weight to act as ballast." This physical property of ballast is likewise not akin to Applicant's invention which requires filler material "having a density less than water" as per the above-mentioned Claims.

Third, Applicant also respectfully refers the Examiner to the Merriam-Webster's Online Dictionary, *available at* <<http://www.m-w.com>> (last accessed 12-17-06) and attached herewith as **Appendix A** which defines "ballast" (sense 1 - noun) as the following: "a heavy substance placed in such a way as to improve stability and control" and " gravel or broken stone."

Inapplicability of Taguchi

Accordingly, because Applicant's invention does not utilize ballast material (for the reasons as explained above of this paper), the Examiner's reliance on the primary reference of Papetti (which refers to "ballast material") is unfounded.

Moreover, Applicant respectfully acknowledges the Examiner's discussion of Taguchi as a secondary reference in rejecting the above-mentioned Claims. However, Applicant respectfully emphasizes that Taguchi provides for the use of "*fiber reinforced foamed materials*" in the gabion system (which Examiner has quoted on numbered Page 4 of the Office Action) (emphasis added). This is not -- as Examiner states and/or otherwise implies -- a characteristic of filler material *having a density less than that of water* such as, for example, expanded polystyrene foam itself. Rather, Taguchi teaches a method and apparatus, both of which comprise a "foamable material...with the composite fibers or composite yarns...so as to reinforce the foamed body." See Taguchi (abstract; col. 3 lines 4-23; col. 3 lines 30-38; col. 9 lines 63-68; and, col. 10 lines 1-49). In contrast, Applicant's instant invention discloses and claims filler material having density less than that of water such as, for example, expanded polystyrene foam.

Also, Taguchi's utilization of a *fiber-reinforced* foamable material teaches away from Applicant's use of, for example, expanded polystyrene foam or some other material having a density less than that of water (as discussed in more detail above).

Regarding the rejection of Independent Claim 27 (and Dependent Claims 28-32 & 34-35), Independent Claim 36 (and Dependent Claims 37-41 & 43-44), and Independent Claim 45 (and Dependent Claim 46) with respect to Papetti alone or in combination with Taguchi, further distinctions vis-a-vis these Claims are described above in connection with the discussion of Papetti, above.

Therefore, in view of all of the foregoing, Applicant respectfully requests that Claims 27-32, 34-41, and 43-46 be allowed.

35 U.S.C. §103 – Ragazzo
Claims 33 & 42

On numbered Page 4 of the Office Action, the Examiner has rejected Dependent Claim 33 (which directly depends from Independent Claim 27) and Dependent Claim 42

(which directly depends from Independent Claim 36) under 35 U.S.C. §103(a) as being unpatentable over Papetti in view of Taguchi and in further view of Ragazzo.

Inapplicability of Ragazzo

For the above-mentioned reasons with regard to the inapplicability of the Papetti primary reference (as discussed above) and the Taguchi secondary reference (as discussed above and further below), Applicant respectfully refers the Examiner to the respective discussions above.

Ragazzo is directed to the art of traditional gabion systems with ballast material. "The invention relates broadly to the art of Gabion Systems." (See Ragazzo, col. 1, line 5.) "Gabion Systems are containers or cages filled with ballast." (See Ragazzo, col. 1, line 16 (emphasis added).) Accordingly, Ragazzo is directed to *ballast material*, whereas Applicant's invention involves *lightweight* material having a density less than that of water (i.e., non-ballast material). Please refer to the above-referenced discussion of Papetti and Taguchi, respectively.

Further, while Applicant respectfully acknowledges the Examiner's quotation of Ragazzo with regard to the use of poly-vinyl chloride ("PVC")-coated gabions and that Claims 33 and 42 recite the same material, for the above-mentioned reasons and discussion, Applicant respectfully disagrees with the Examiner that Papetti in view of Taguchi et al. disclose essentially all that is claimed.

Likewise, although the Examiner does not address this, Applicant would like to clarify further that even Ragazzo, alone, would not disclose essentially all or actually all that is claimed. Similar to the above discussion of Papetti and Taguchi, Ragazzo does not teach, suggest, or provide the motivation to provide for a portable platform or a portable roadway. Moreover, also similar to the limitations of these two cited references, Ragazzo does not utilize a lightweight (i.e., non-ballast) material in its gabion system; instead, Ragazzo utilizes *ballast* material. As explained above, ballast material is *not* utilized in Applicant's invention; rather, filler material having a density less than that of water such as, for example, expanded polystyrene foam, is used.

Finally, in light of the distinguishing features of Dependent Claim 33 (which directly depends from Independent Claim 27) and 42 (which directly depends from Independent Claim 36), as discussed above (see, esp., the above Papetti discussion) over the Papetti, Taguchi, and Ragazzo references, Applicant respectfully requests that these Claims be allowed.

Miscellaneous

Applicant gratefully acknowledges the Examiner's suggested language for amending Independent Claim 27 and respectfully requests that the newly amended language of Claim 27 be entered so this Claim is in allowable form. Moreover, consistent with the Examiner's suggestion on numbered Page 5 of the Office Action, instead of "top surface" this language is replaced by at least one "gabion container having a wire mesh top surface defining a closed gabion" to define this structural aspect of the support layer of the portable roadway. Because Independent Claim 27 recites a portable roadway apparatus comprising of a plurality of wire mesh gabions, it would be more accurate to amend Claim 27 so that the support layer has a top surface defined by a plurality of such closed gabions.

Moreover, to address the Examiner's concern that "a plurality of panels" in Independent Claim 27 is not adequately defined in terms of structure, the Applicant respectfully requests that the amended language be entered so that Claim 27 is in allowable form. Specifically, Applicant has clarified by way of amendment that the removeable panels are placed on the top surface of the support layer, thereby forming a traffic layer. Finally, also for purposes of clarity, the Applicant has amended the placement of the "wherein" clause for clarity so that the "wherein" clause is separate from Claim 27(a) (referring to the support layer) and Claim 27(b) (referring to the traffic layer) since it relates to the strength characteristic of the portable roadway as a whole (i.e., with support layer and traffic layer combined), such that the portable roadway has sufficient strength to support construction vehicle traffic.

For clarification purposes, Applicant also respectfully requests that the Examiner enter in the amendment for Dependent Claim 30, which directly depends from Dependent Claim 29 and indirectly from Independent Claim 27, wherein the original term "fabric" is replaced by the phrase "fabric wrapper" to relate back to Dependent Claim 38 which states

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"a fabric wrapper."

Also, for the purposes of clarity, Applicant respectfully requests that the Examiner enter in the amendment for Dependent Claim 39, which directly depends from Dependent Claim 38 and indirectly from Independent Claim 36, wherein the original term "fabric" is replaced by the phrase "fabric wrapper" to relate back to Dependent Claim 38 which states "a fabric wrapper."

Similarly for clarification purposes, Applicant respectfully requests that the amendment for Dependent Claim 34 (which directly depends from Independent Claim 27) -- consistent with numbered Page 6 of the Specification -- be entered such that it is understood that the panels may be wood, metal, or a combination thereof. Likewise, for clarity, Applicant further respectfully requests that the amendment for Dependent Claim 43 (which directly depends from Independent Claim 36) -- consistent with numbered Page 6 of the Specification -- be entered by the Examiner so that it is understood that the panels may be wood, metal, or a combination thereof.

Applicant also respectfully acknowledges the Examiner's comments on numbered Pages 6-11 of the Office Action. However, Applicant believes that all such remarks by Examiner are adequately addressed in this or the preceding sections, to the extent that said comments are not moot.

Conclusion

In light of Applicant's amendments to the claims and the discussion in this and the preceding sections, Applicant respectfully requests that Claims 27-46 be allowed as expediently as possible. Moreover, Applicant respectfully requests that the Examiner call the Applicant's representative, Lee Kim, Esq., at (412)594-3915 with any questions, comments, or concerns.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Lee Kim".

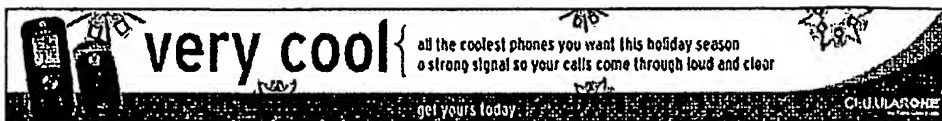
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ballast[1,noun]
ballast[2,transitive verb]

Main Entry: **1 bal last**

Pronunciation: 'ba-l&st

Function: *noun*

Etymology: probably from Low German, of Scandinavian origin; akin to Danish & Swedish *barlast* ballast; perhaps akin to Old English *bær* bare & to Old English *hlæst* load, *hladan* to load -- more at **LADE**

1 : a heavy substance placed in such a way as to improve stability and control (as of the draft of a ship or the buoyancy of a **balloon** or submarine)

2 : something that gives stability (as in character or conduct)

3 : gravel or broken stone laid in a railroad bed or used in making concrete

4 : a device used to provide the starting voltage or to stabilize the current in a circuit (as of a fluorescent lamp)

- **In ballast of a ship** : having only ballast for a load

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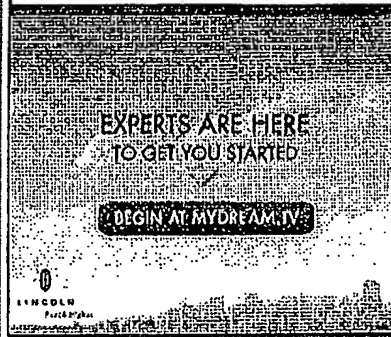
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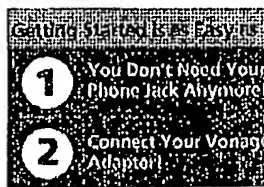
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